

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CV-352-BO

HUDSON SPECIALTY INSURANCE)
COMPANY,)
Plaintiff,)
v.)
ERIC WILLIAM BROWN, DOUGLAS)
W. BROWN, and TAYLOR DOUGLAS)
HUNEYCUTT,)
Defendants.)

ORDER

This cause comes before the Court on a joint response to the Court's order and motion to amend proof of service and/or extend time for service.

DISCUSSION

By order entered May 6, 2016, the Court directed plaintiff to show cause why defendant Eric Brown should not be dismissed from this action due to plaintiff's failure to effect proper service. In response, plaintiff and defendants request that plaintiff be permitted to amend proof of service as to defendant Eric Brown to reflect that Eric Brown intended to and did voluntarily accept service of the summons and complaint in this action on August 25, 2015.

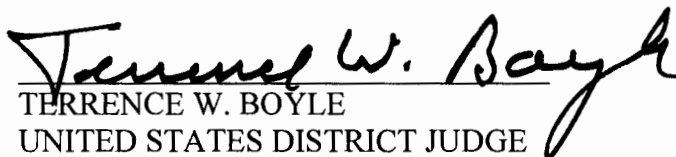
The request to amend is denied. The acceptance of service filed by the parties which purports to reflect proper service in this matter on Eric Brown reflects that Eric Brown accepted service on May 10, 2015. [DE 29-5]. The complaint in this action was not filed until July 23, 2015, and thus proper service could not have been effected on Eric Brown prior to that time. Fed. R. Civ. P. 4(c).

However, since entry of the Court's order, an attorney has noticed an appearance on behalf of Eric Brown. [DE 28]. Although in the absence of the Court's leave to file out of time defendant Eric Brown would likely be found to be in default as his answer in this matter has been stricken, the Court declines to consider this issue in light of the resolution of this matter reached by the parties and plaintiff's effort to reduce this matter to judgment.

CONCLUSION

The joint motion [DE 29] is DENIED. The parties shall have fourteen days from the date of entry of this order to re-file with proper signatures their joint motion for entry of consent judgment.

SO ORDERED, this 31 day of May 2016.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE